



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

August 12, 2013

The Honorable Chellie Pingree
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Pingree:

This responds to your cosigned letter to President Obama regarding your concerns related to the Department of Veterans Affairs (VA) adjudication process for disability claims involving military sexual trauma (MST). The President has asked that I respond on his behalf.

This Administration has demonstrated an unwavering commitment to our Veterans, and this Department has worked diligently to ensure the fairness of the disability claims process, including those claims involving MST. VA is committed to serving our Nation's Veterans by accurately adjudicating claims based on MST in a thoughtful and caring manner, while fully recognizing the unique evidentiary considerations involved in such an event. Over the last 3 years, VA has carefully addressed the evidentiary challenges associated with Post-traumatic Stress Disorder (PTSD) based on in-service MST, while remaining aligned with VA's statutory claims adjudication obligations.

We share your goal of providing victims of MST with a fair process for adjudicating PTSD claims. Towards that end, the Veterans Benefits Administration has taken unprecedented steps to ensure that these Veterans receive a sympathetic and fair evaluation of their claims. An aggressive nationwide training initiative focused on the unique section of the PTSD regulation that addresses personal assault and MST. Major emphasis was placed on the wide range of MST markers that can corroborate occurrence of an assault. Since then, the grant rate for these claims has risen from a pre-training rate of approximately 34 percent in June 2011 to a current grant rate of approximately 54 percent this fiscal year through March 2013. VA will also review previously denied PTSD claims based on MST for those Veterans requesting it.

Your letter refers to the relaxed evidentiary standards established in 2010 for PTSD claims based on fear of hostile military or terrorist activity, and states that a similar regulation should apply to PTSD claims based on MST. As part of an Administration-wide focus on the critical issue of MST, we continue to examine this issue as we carry forward the training, regulatory, and case review efforts VA put in place in 2011.

Currently, MST claims are handled as follows:

- Before making a decision on a PTSD claim based on MST, VA obtains the complete military personnel file to search for evidence of occurrence of in-service personal assault and also any non-military records identified by the Veteran, such as those from law enforcement agencies, hospitals, or mental health clinics. Any indication of occurrence of an MST event, including a change

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in behavior, is considered a marker. Evidence of these markers include: requests for unit transfer; disciplinary actions; erratic performance evaluations; mental health counseling; pregnancy tests; indications of sexually transmitted diseases; substance abuse; episodes of depression, panic attacks, or anxiety without identifiable cause; or any unexplained economic or social behavioral change. Additionally, markers can include statements related to the in-service MST event from family members, roommates, fellow Servicemembers, or clergy. VA will not deny a claim based on an in-service personal assault without first notifying a Veteran that this type of evidence may constitute credible supporting evidence of an assault and allowing the Veteran to furnish this type of evidence or advise VA of the potential sources of such evidence. When the threshold evidence of a marker is obtained, VA will provide the Veteran with an examination conducted by a qualified mental health professional. A medical opinion based on this examination may serve as evidence supporting occurrence of an in-service assault.

- VA's regulation recognizes the challenges of establishing occurrence of MST. It provides that evidence from sources other than a Veteran's service record may establish occurrence of the assault; requires notification to the claimant of the types of evidence that may establish the stressor; and provides for submission of the evidence to an appropriate medical or mental health professional for an opinion about whether it indicates that a personal assault occurred. [Further, under VA's regulation, unlike the generally applicable standard for PTSD claims, a medical opinion based on a post-service examination of a Veteran may serve as evidence supporting occurrence of an in-service assault.] For these reasons, VA's regulation establishes a means of addressing the special circumstances surrounding claims for service connection of PTSD based on sexual assault.

We continue to examine this issue and look forward to our continued dialogue with your office and the Veterans' Affairs Committees in Congress.

Should you have any questions, please have your staff contact Mr. John Kruse, Director, Benefits Legislative Service, at (202) 461-6467 or by e-mail at John.Kruse3@va.gov. A similar response has been sent to Senator Tester.

Thank you for your continued support of our mission.

Sincerely,

A handwritten signature in dark ink, appearing to read "Eric K. Shinseki", written in a cursive style.

Eric K. Shinseki